

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	
Amendment of Section 2.106 of the)	
Commission's Rules to Allocate Spectrum at)	ET Docket No. 95-18
2 GHz for use by the Mobile-Satellite Service)	
)	
Amendment of Part 2 of the Commission's)	
Rules to Allocate Spectrum Below 3 GHz for)	
Mobile and Fixed Services to Support the)	ET Docket No. 00-258
Introduction of New Advanced Wireless)	
Services, including Third Generation Wireless)	
Systems)	
)	
Flexibility for Delivery of Communications by)	IB Docket No. 01-185
Mobile Satellite Service Providers in the 2)	
GHz Band, the L-Band, and the 1.6/2.4 GHz)	
Bands)	

**PETITION FOR RECONSIDERATION AND CLARIFICATION
OF THE BOEING COMPANY**

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January 7, 2004

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SUMMARY

The Commission clearly furthered the public interest by refraining from making significant changes in its relocation process for incumbent licensees in the 2 GHz band. Boeing, however, urges the Commission to reduce even further the changes that were made to its relocation rules and procedures.

Specifically, the Commission should retain its two-step process for relocating the Broadcast Auxiliary Service (BAS”) from the 1990-2025 MHz band. The Commission should also make minor changes to Phase I of the two-step process in order to clear 15 MHz, rather than just 8 MHz, of spectrum for early entrants in the 2 GHz Mobile Satellite Service (“MSS”). This could be done by retuning BAS Channel 1 to operate in the 1990-2005 MHz band, rather than the 2008-2023 MHz band. No other changes would be needed to the Phase I relocation process. As a result of this adjustment, 18 megahertz would be cleared in the 2005-2023 MHz band, which would be substantially contiguous with the MSS allocation of 2000-2020 MHz and would make 15 megahertz of uplink spectrum available to accommodate the initial spectrum requirements of at least two, and possibly three, 2 GHz MSS licensees.

Such an approach would reduce upfront development costs for 2 GHz MSS networks and would reduce significantly the spectrum left fallow while the Commission develops licenses new services to operate in the 1990-2000 MHz and 2020-2025 MHz bands. Retention of a two-phased approach would benefit BAS licensees by providing more time to improve the quality, availability and cost of digital BAS equipment. In addition, initiation of the second phase of the two-phased approach would potentially coincide with the introduction of new licensees in the 1990-2000 MHz and/or 2020-2025 MHz bands, providing additional sources of funding and expertise that could be used to ensure that the BAS relocation process is completed expeditiously and without complication.

The Commission should also clarify that it is retaining its policy that subsequent entrants in the 2 GHz band must reimburse earlier entrants for a proportion share of the costs of clearing BAS licensees on a *pro rata* basis according to the amount of spectrum each licensee is assigned. The Commission's order appears to affirm this requirement and appropriately expand it to all new entrants in the 2 GHz band, not just MSS licensees. The Commission, however, refrains from establishing detailed procedures and reimbursement obligations of new entrants in the 2 GHz band. The Commission also raises several questions regarding the reimbursement obligations of services that may be relocated to the 2 GHz band from other frequencies, such as the Multipoint Distribution Service or Nextel's 800 MHz network.

The Commission should not wait until new allocations have been made in the 1990-2000 MHz and 2020-2025 MHz bands before finalizing the obligations of new entrants to reimburse earlier entrants for the costs of BAS relocation. The Commission has appropriately concluded in other recent proceedings that no reason exists to delay the imposition of such obligations.

The Commission should also address immediately unresolved questions regarding the relocation obligations of new services in the 2 GHz band that are relocated from other spectrum bands. When the Commission was previously faced with this identical issue, the Commission clearly stated that no question existed regarding *whether* reimbursement would occur, but only which party would be responsible for the reimbursement. The Commission should employ this identical policy with respect to reimbursement of MSS licensees for the relocation of BAS incumbents.

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To: The Commission

**PETITION FOR RECONSIDERATION AND CLARIFICATION
OF THE BOEING COMPANY**

The Boeing Company ("Boeing"), by its attorneys and pursuant to Section 1.429 of the Commission's rules, 47 C.F.R. § 1.429, submits this Petition for Reconsideration and Clarification of the Commission's Order ("*Third Report and Order*") in this proceeding.

I. INTRODUCTION

Boeing greatly appreciates the Commission's decision to make minimal changes in its relocation process for incumbent licensees in the 2 GHz band. Despite a number of major recent developments affecting spectrum users in the band, the Commission succeeded in keeping in place the "fundamental workings" of the relocation process and retaining "in substantial part" the

relocation procedures to be followed by new entrants in 2 GHz spectrum.¹ The Commission's decision to minimize disruption of its 2000 relocation process will help provide regulatory certainty for MSS licensees, which are quickly approaching the half-way point in their six year network development milestone schedules.

In addition to supporting the Commission's cautious approach in updating its relocation procedures, Boeing urges the Commission to reduce even further the changes made in the incumbent relocation process for the benefit of existing and future spectrum users in the 2 GHz band. Specifically, Boeing asks the Commission to reconsider its decision to eliminate Phase I of the relocation process for the Broadcast Auxiliary Service ("BAS") and instead make minor adjustments to the Phase I procedures. As the Commission has repeatedly recognized, the use of a two-phased relocation process for the BAS can provide significant benefits for both MSS entrants and BAS incumbents.² Retention of the two-phased process in slightly modified form will keep these benefits in place and help ensure that spectrum resources in the 2 GHz band do not lie fallow for a potentially lengthy period of time.

Boeing also requests clarification regarding the Commission's retention of its policy requiring later entrants in the 2 GHz band to pay earlier entrants a proportionate share of the

¹ See *In the Matter of Amendment of Section 2.106 of the Commission's Rules to Allocate Spectrum at 2 GHz for use by the Mobile-Satellite Service; Amendment of Part 2 of the Commission's Rules to Allocate Spectrum Below 3 GHz for Mobile and Fixed Services to Support the Introduction of New Advanced Wireless Services, including Third Generation Wireless Systems; Flexibility for Delivery of Communications by Mobile Satellite Service Providers in the 2 GHz Band, the L-Band, and the 1.6/2.4 GHz Bands*, Third Report and Order and Third Memorandum Opinion and Order, ET Docket Nos. 95-18 and 00-258; IB Docket No. 01-185, ¶¶ 2 & 8 (Nov. 10, 2003) ("*Third Report and Order*").

² See *id.*, ¶ 21 (citing *Amendment of Section 2.106 of the Commission's Rules to Allocate Spectrum at 2 GHz for use by the Mobile-Satellite Service*, ET Docket No. 95-18, Second Report and Order and Second Memorandum Opinion and Order, 15 FCC Rcd 12315, ¶¶ 24, 27 & 34 (2000) ("*MSS Second Report and Order*").

earlier entrants' BAS relocation costs on a *pro rata* basis according to the amount of spectrum each licensee is assigned.³ Although the Commission appears to affirm its retention of this requirement in its *Third Report and Order*,⁴ the Commission also raises questions and concerns that require immediate clarification and/or resolution.⁵ Boeing therefore urges the Commission to resolve promptly in this and related proceedings any outstanding questions regarding the importance of equitable reimbursement of relocation costs incurred by early entrants in the 2 GHz band.

II. THE COMMISSION SHOULD RETAIN PHASE I OF ITS BAS RELOCATION PROCESS WITH ONLY MINOR ADJUSTMENTS

In the *Third Report and Order*, the Commission concluded that it should eliminate Phase I of its BAS relocation process because of several factors that make the first phase “no longer practical.”⁶ The primary factor was the recent reallocation of 15 megahertz of MSS spectrum in the 1990-2000 MHz and 2020-2025 MHz bands to other services.⁷ As a result of this reallocation, the Phase I process would clear only eight megahertz of spectrum (2000-2008 MHz) within the frequency segment allocated to MSS, likely necessitating the rapid shift to Phase II of the relocation process as soon as a second MSS licensee begins service.⁸

³ See *MSS Second Report and Order*, ¶ 67.

⁴ See *Third Report and Order*, ¶ 9.

⁵ See *id.*, ¶¶ 10 & 11.

⁶ *Id.*, ¶ 35.

⁷ See *Amendment of Part 2 of the Commission's Rules to Allocate Spectrum Below 3 GHz for Mobile and Fixed Services to Support the Introduction of New Advanced Wireless Services, Including Third Generation Wireless Systems*, ET Docket No. 00-258, Third Report and Order, Third Notice of Proposed Rulemaking and Second Memorandum Opinion and Order, 18 FCC Rcd 2223 (2003) (“*AWS Third Report and Order*”), petitions for reconsideration pending.

⁸ See *Third Report and Order*, ¶¶ 30-33.

A modest adjustment to the Phase I process would resolve this infirmity. Currently, Phase I of the BAS relocation process is designed to clear the 1990-2008 MHz band through the retuning or replacement of BAS equipment in order to operate on 14.5 or 15 megahertz bandwidth channels, rather than 17 or 18 megahertz bandwidth channels.⁹ As a part of the Phase I process, BAS Channel 1 would be retuned from its current position of 1990-2008 MHz to a new position of 2008-2023 MHz. Each of the other six channels would also be retuned consistently. For example, BAS Channel 2 would be retuned from 2008-2025 MHz to 2023-2037.5 MHz and BAS Channel 3 would be retuned from 2025-2042 MHz to 2037.5-2052 MHz.

A modest adjustment to the Phase I plan would leave BAS Channel 1 in its current position, while continuing to retune BAS Channel 1 from an 18 megahertz bandwidth to a 15 megahertz bandwidth. As a result, BAS Channel 1 would occupy the 1990-2005 MHz band, essentially the same position that it occupied prior to the Phase I adjustment. No other changes would be needed to the Phase I relocation process. Instead, the other six BAS channels would still be retuned to their new locations; BAS Channel 2 going to 2023-2037.5 MHz, BAS Channel 3 going to 2037.5- 2052 MHz and so on.

As a result of this adjustment, 18 megahertz would be cleared in the 2005-2023 MHz band, which would be substantially contiguous with the MSS allocation of 2000-2020 MHz. The adjustment would make available 15 megahertz of uplink spectrum for MSS licensees, sufficient bandwidth to accommodate the initial spectrum requirements of at least two, and possibly three, 2 GHz MSS licensees.

Admittedly, the cleared spectrum would include only 5 megahertz (2005-2010 MHz) of globally allocated 2 GHz MSS spectrum. It now appears, however, that three of the remaining

⁹ See *id.*, ¶¶ 15 & 16.

four 2 GHz MSS licensees are planning to construct networks on an incremental basis beginning with coverage of North America.¹⁰ This means that only one MSS operator may need immediate access to global spectrum resources, which could be accommodated in the 2005-2010 MHz spectrum segment. One or more additional 2 GHz MSS operators could later seek access to the globally allocated MSS spectrum in the 2000-2005 MHz spectrum segment as a part of the second phase of the BAS relocation process.

Retention of a modified Phase I approach would provide substantial benefits to MSS licensees by greatly reducing the upfront costs that must be made for BAS relocation before MSS operators begin service. The more substantial Phase II costs could then be financed in part through operating revenues. Furthermore, a significant share of the Phase II costs possibly could be paid by new entrants in the 1990-2000 MHz and 2020-2025 MHz bands, which may be licensed and ready to deploy services by the time the second phase of the relocation process is needed.

Retention of the Phase I process would further the Commission's overarching goal of spectral efficiency. Under the two-phased approach, only 18 megahertz of spectrum would be cleared as a part of Phase I, the vast majority of which would be rapidly utilized by 2 GHz MSS licensees. In contrast, if the Commission moves immediately to Phase II of the relocation process, 35 megahertz would be cleared of all spectrum users. The vast majority of this cleared spectrum would lie fallow potentially for years while the Commission completes the complex process of licensing new services in the 1990-2000 MHz and 2020-2025 MHz spectrum segments.

¹⁰ Boeing and Iridium have announced plans to construct their networks on an incremental basis, beginning with geosynchronous satellites covering North America. CelSat had always planned to limit the coverage of its network to North America.

Retention of the Phase I process would also give the Commission more time to resolve uncertainties about the types of new services that may be introduced in the 1990-2000 MHz and 2020-2025 MHz bands and the procedures that will be used to ensure their equitable participation in the relocation of BAS licensees. As the Commission acknowledges in its *Third Report and Order*, “the nature and scope of new Fixed and Mobile service licensees that will operate in the 1990-2000 MHz and 2020-2025 MHz bands has not yet been determined.”¹¹ Once these difficult decisions have been made “some time will be required to establish service rules and license new Fixed and Mobile entrants before they can secure entry into the band.”¹² Even after each of the necessary regulatory steps have been completed, additional years will likely be required in order for new licensees to deploy equipment and prepare for operations in the bands.

Given the inherent uncertainties of an adversarial rulemaking process and the numerous interests competing for access to the 1990-2000 MHz and 2020-2025 MHz bands, it would appear extremely difficult to predict how much time will pass between the launch of 2 GHz MSS networks and the provision of Advanced Wireless Services (“AWS”) in 2 GHz spectrum. As a result of this uncertainty, the immediate implementation of Phase II of the relocation process would force one or more MSS licensees to go it alone with BAS relocation, spending heavily to clear a full 35 megahertz of spectrum without any certainty regarding when (and by what parties) it will be reimbursed for its substantial expenses. Such regulatory uncertainty would be disabling to a new entrant seeking to secure investor support for a capital intensive MSS communications network. Such regulatory uncertainty is also entirely unnecessary.

¹¹ *Id.*, ¶ 10.

¹² *Id.*, ¶ 32 n.82; *see also* *MSS Second Report and Order*, ¶ 47 & n.131 (stating that if the Commission pairs the 1990-2000 MHz band with the 1910-1920 MHz band for an expansion of Broadband PCS service, the Commission would propose specific licensing and service rules in a subsequent Notice of Proposed Rulemaking).

The Commission can and should provide MSS licensees with a clear and minimally burdensome regulatory path by keeping in place a two-phased approach for relocating BAS licensees in the 2 GHz band. Phase I of the relocation process should be completed prior to the provision of service by MSS licensees. Phase II should be introduced either when more than 15 megahertz of uplink spectrum is needed by 2 GHz MSS licensees, or when new Fixed and Mobile services have been licensed and are ready to operate in the 1990-2000 MHz and/or 2020-2025 MHz bands.

In this regard, the use of a two-phased approach will also benefit BAS licensees. It will likely provide an additional pool of new entrants to the band that can assist with the negotiation, administration, and financing of the Phase II relocation process. As the Commission is aware, relocating an entire communications service from a spectrum band is an extremely time consuming and expensive process, involving numerous logistical challenges. The participation of any new licensees in the 1990-2000 MHz and 2020-2025 MHz bands could provide substantial assistance with the relocation process, particularly if those licensees have some experience in prior incumbent relocations.

Retention of a modified Phase I approach could also provide additional benefits to BAS licensees. As the Commission observed in its *MSS Second Report and Order*, the use of two phases would benefit BAS licensees by giving digital BAS equipment “more time for design development, becoming higher capacity, smaller, less expensive, and less power-intensive.”¹³ The Commission indicated in its *Third Report and Order* that, in the intervening three years, BAS equipment manufacturers have made significant progress making such equipment available

¹³ *Third Report and Order*, ¶ 34 (quoting *MSS Second Report and Order*, ¶ 35).

at reasonable prices.¹⁴ In light of the progress that has been made in the past three years, it would appear reasonable to assume that delaying further the Phase II relocation process would enable even more technological developments, increases in quality, and reductions in prices for BAS equipment.

The proposed modification of the Phase I process would also create a three megahertz guard band between MSS spectrum and BAS Channel 2. Alternatively, BAS Channels 2-7 could be re-spaced at 15 MHz intervals (using the entire 2020-2110 MHz band) rather than 14.5 MHz intervals if BAS proponents believe that such a change will enhance their operations.

In summary, all parties would benefit from the retention of Phase I of the relocation process in slightly modified form. The continued use of two phases will assist in the development of MSS networks in the 2 GHz band, while reducing the amount of spectrum that will be left fallow for potentially lengthy periods of time during the relocation process. Use of a two-phased process will also provide additional time to identify the parties that will contribute to the second phase of the relocation process, increasing regulatory certainty for all new entrants in the 2 GHz band and providing an additional pool of participants that can help ensure that the relocation of BAS incumbents is completed without complication. In light of the numerous benefits that can be provided, Boeing urges the Commission to retain Phase I of the BAS relocation process in slightly modified form.

III. THE COMMISSION SHOULD CLARIFY THE OBLIGATION OF LATER ENTRANTS IN THE 2 GHz BAND TO REIMBURSE ON A *PRO RATA* BASIS EARLIER ENTRANTS FOR THEIR BAS RELOCATION EXPENSES

The Commission clearly stated in its *MSS Second Report and Order* that it will require subsequently entering MSS licensees to pay the earlier licensees “a proportional share of the

¹⁴ *See id.*

earlier MSS licensee's costs in clearing BAS spectrum, on a *pro rata* basis according to the amount of spectrum each licensee is assigned.”¹⁵ In the *Third Report and Order*, the Commission appears to affirm this requirement and appropriately expand it to all new entrants in the 2 GHz band, not just MSS licensees.¹⁶ Specifically, the Commission states “that licensees that ultimately benefit from spectrum cleared by MSS shall bear the cost of reimbursing MSS licensees for the accrual of that benefit.”¹⁷

The Commission, however, refrains from expressing details regarding the reimbursement obligations of new entrants in the 2 GHz band because, as noted in the previous section, “the nature and scope” of the new services has not yet been determined.¹⁸

The Commission should not wait until new allocations have been made in the 1990-2000 MHz and 2020-2025 MHz bands before finalizing the obligations of new entrants to reimburse earlier entrants for the costs of BAS relocation. The Commission has appropriately concluded in other recent proceedings that no reason exists to delay the imposition of such obligations. For example, the Commission is currently considering whether to reallocate all or part of the 1910-1930 MHz band for new services.¹⁹ The band is being cleared by UTAM, Inc. of incumbent microwave networks.²⁰ Despite the fact that the Commission is still selecting

¹⁵ *MSS Second Report and Order*, ¶ 67.

¹⁶ *See Third Report and Order*, ¶ 9.

¹⁷ *Id.*, ¶ 10.

¹⁸ *Id.*

¹⁹ *See AWS Third Report and Order*, ¶ 39.

²⁰ *See id.*

possible new entrants for the band, the Commission decided earlier this year to move forward with the development of reimbursement obligations, proposing at length and in detail that

UTAM be entitled to a percentage of the total reimbursement expenses incurred for the 1910-1930 MHz band as of the effective date of any final rules we adopt in this proceeding. This percentage would represent the percentage of the 1910-1930 MHz band that we ultimately re-designate. For example, if we re-designate 10 megahertz – half of the band – then UTAM would be entitled to 50 percent of its total reimbursement expenses. If we instead re-designate the 1910-1915 MHz band segment, then UTAM would be entitled to a 25 percent reimbursement. We note that the party (or parties) obligated to reimburse UTAM will depend on our final decision with respect to the 1910-1920 MHz band. As an example, if we license the 1910-1915 MHz band segment in conjunction with Broadband PCS expansion, we propose that each future Broadband PCS licensee in that band contribute towards reimbursing UTAM a pro-rated portion of the total reimbursement. We note that this pro-rated amount could be based on the number of licenses, the value of licenses as determined by auction, or could be calculated by other means, and we seek further comment on the specific calculation we should employ.

The Commission should take this same proactive stance with respect to the reimbursement of MSS licensees for the relocation of BAS incumbents. Specifically, the Commission should immediately release a *Notice of Proposed Rulemaking* proposing that MSS licensees be entitled to a percentage of their total reimbursement expenses based on the amount of spectrum reallocated to other services and the amount of spectrum used by MSS licensees. For example, if a MSS operator that is licensed to use five megahertz of spectrum for its uplink transmissions clears BAS incumbents from the entire 1990-2025 MHz band, then any new services operating in the 2020-2025 MHz band would be required to pay half of the relocation expenses of the MSS licensee. Alternatively, any new service that is licensed to operate in the

ten megahertz of spectrum at 1990-2000 MHz would be required to pay two-thirds of the MSS licensee's relocation expenses.²¹

The Commission should also address immediately unresolved questions regarding the relocation obligations of new services in the 2 GHz band that are relocated from other spectrum bands. The Commission explained in its *Third Report and Order*,

it is not clear how we would apply our traditional cost-sharing principles were we to use portion of the bands to provide relocation spectrum for Nextel's operations in the 800 MHz band or for MDS licensees in the 2150-2160/62 MHz band, [or] to relocate federal government operations.²²

Here again, the Commission was unequivocal in addressing this identical issue with respect to reimbursement of relocation expenses in the 1910-1930 MHz band. The Commission clearly stated that no question existed regarding *whether* reimbursement would occur, but only which party would be responsible for the reimbursement, explaining

If the [1910-1920 MHz] spectrum is to be used for the relocation of existing licensees, it may be inequitable to expect these relocated licensees to reimburse UTAM. Thus, for those commenters that propose that the 1910-1920 MHz band (or a portion thereof) be used to relocate existing licensees, we seek comment on the means by which UTAM should be reimbursed, including proposals as to what parties should pay these expenses and how such a payment should be apportioned between parties.²³

²¹ Obviously, if a new service operating in the 2020-2025 MHz band reimburses half of the expenses of a MSS licensee prior to the initiation of new services in the 1990-2000 MHz band, the new services in the 1990-2000 MHz band would be required to reimburse half of the remaining unreimbursed relocation expenses of the MSS licensee and half of the relocation expenses of the new operators in the 2020-2025 MHz band. Further, as the Commission already concluded in its *MSS Second Report and Order*, these same obligations would apply to all subsequently entering MSS networks in the 2 GHz MSS band. *See MSS Second Report and Order*, ¶ 67.

²² *Third Report and Order*, ¶ 10 (*internal citations omitted*).

²³ *MSS Second Report and Order*, ¶ 59.

The Commission should employ this identical policy with respect to reimbursement of MSS licensees for the relocation of BAS incumbents. If the Commission allocates any portion of the 1990-2000 MHz or 2020-2025 MHz bands to the Multipoint Distribution Service (“MDS”) or federal government operations, the parties that benefit from the clearing of the MDS or government spectrum should be obligated to reimburse MSS licensees for a *pro rata* share of their BAS relocation expenses. This reimbursement should occur before the new services begin operating in 2 GHz spectrum.

Furthermore, if the Commission allocates any portion of the 1990-2000 MHz or 2020-2025 MHz bands to Nextel, the Commission should require Nextel to reimburse MSS licensees for a *pro rata* share of their BAS relocation expenses. Such a requirement is clearly appropriate in light of the fact that Nextel has actively sought the Commission’s approval to move its network to the 2 GHz band. Furthermore, Nextel has volunteered to pay for many of the expenses of resolving interference to public safety services (interference primarily caused by Nextel’s operations) in the 800 MHz band. 2 GHz MSS licensees had nothing to do with the interference problems in the 800 MHz band. It would therefore be incongruous to require Nextel to reimburse spectrum users in the 800 MHz band for their relocation expenses, but not to require Nextel to reimburse 2 GHz MSS licensees for their BAS relocation expenses.

Instead, to the extent that Nextel is provided spectrum in the 2 GHz band, the only equitable solution would be to require Nextel to fully reimburse MSS licensees on a *pro rata* basis for their BAS relocation expenses. Furthermore, the Commission should place Nextel on

notice regarding this obligation by clearly imposing this requirement in any order that is issued by the Commission in WT Docket Number 02-55.²⁴

Finally, the Commission questions in its *Third Report and Order* how reimbursement for BAS relocation should be handled for any 2 GHz spectrum that is left vacant as a guard band to provide interference separation between new AWS licensees and 2 GHz MSS networks operating with an Ancillary Terrestrial Component (“ATC”).²⁵ Boeing supports the Satellite Industry Association (“SIA”) in opposing the creation of any guard band between AWS and 2 GHz MSS networks in all or part of the 1995-2000 MHz band.²⁶ Such a guard band would waste valuable spectrum resources by leaving fallow as much as five megahertz of globally allocated MSS spectrum, which could be efficiently used to provide MSS services to consumers. Rather than create a guard band between AWS and MSS ATC services, the Commission should allocate the 1995-2000 MHz band to MSS networks, if necessary with a prohibition on ATC operations in the five megahertz spectrum segment.²⁷ Such a solution would be spectrally efficient and would resolve any question about the impact of a guard band on the reimbursement of MSS licensees for BAS relocation expenses.

²⁴ See *Improving Public Safety Communications in the 800 MHz Band; Consolidating the 900 MHz Industrial/Land Transportation and Business Pool Channels*, Notice of Proposed Rulemaking, WT Docket No. 02-55, 17 FCC Rcd 4783, ¶ 20 (2002). In order to facilitate the Commission’s consideration of this issue, Boeing has filed a copy of this petition in the record for WT Docket No. 02-55.

²⁵ *Third Report and Order*, ¶ 10.

²⁶ See *Letter from Richard DalBello, President, Satellite Industry Association, to Mr. Honorable Michael K. Powell, Chairman, Federal Communications Commission*, ET Docket No. 00-258 (Nov. 17, 2003).

²⁷ See *id.* (proposing same).

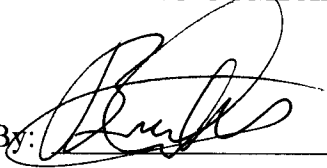
IV. CONCLUSION

For the reasons set forth above, the Commission should reconsider its decision to eliminate Phase I of its BAS relocation process. The Commission should retain a two-phased approach to relocating the BAS, while adopting minor alterations to Phase I of the relocation process.

The Commission should also clarify and reinforce its policies with respect to the reimbursement of 2 GHz MSS licensees for their expenses in relocating BAS networks. The Commission should clearly indicate that all new entrants in the 2 GHz band must reimburse 2 GHz MSS licensees on a *pro rata* basis, including new entrants that are moved to the 2 GHz band as a part of the clearing of other spectrum segments.

Respectfully submitted,

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January 7, 2004